

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Amy Palmer	Team: Team # 1	CCRB Case #: 200204391	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 06/17/2002 8:20 PM	Location of Incident: Bushwick/ Hylan Houses	Precinct: 90	18 Mo. SOL 12/17/2003	EO SOL 12/17/2003	
Date/Time CV Reported Mon, 07/01/2002 2:08 PM	CV Reported At: CCRB	How CV Reported: Mail	Date/Time Received at CCRB Mon, 07/01/2002 2:08 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Michael Cruz	08331	921247	PSA 3
2. An officer			
3. SGT Scott Henderson	05363	915880	I.A.B.

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Zoilo Encarnacion	19524	921317	PSA 3
2. SGT John Cocchi	02548	901331	090 PCT
3. POM Robert Giarraputo	31079	903132	090 PCT
4. SGT Michael Culkin	00420	897277	090 PCT
5. POM Christophe Barry	20835	905759	090 PCT
6. POM Patrick Lantry	19535	917851	090 PCT
7. POM Daniel Dooley	30353	918641	090 PCT
8. POM Michael Hendriks	16879	893154	090 PCT
9. POM Brian Singer	11494	926126	HARBOR
10. POM Jordan Barbuto	30768	915280	PSA 3
11. POM Kevin Mcmillan	29066	914866	PSA 3
12. POM Haaziq Reid	26315	914264	PSA 3
13. POM James King	10882	925544	PSA 3
14. SGT Edward Ng	02183	913880	PSA 3

Officer(s)	Allegation	Investigator Recommendation
A.POM Michael Cruz	Force: PO Michael Cruz punched § 87(2)(b) while attempting to handcuff him.	
B.POM Michael Cruz	Force: PO Michael Cruz punched § 87(2)(b) after he was handcuffed.	
C.SGT Scott Henderson	Abuse: Sgt. Scott Henderson pointed his gun at § 87(2)(b) § 87(2)(b).	

Officer(s)	Allegation	Investigator Recommendation
D. An officer	Force: An officer attempted to use physical force against § 87(2)(b)	
E. An officer	Abuse: An officer pointed his gun at § 87(2)(b)	
F. An officer	Force: An officer used physical force against § 87(2)(b)	
G.SGT Scott Henderson	Force: Sgt. Scott Henderson used physical force against § 87(2)(b)	
H. An officer	Force: An officer struck § 87(2)(b) with a nightstick.	
I. An officer	Force: An officer used physical force against § 87(2)(b)	
J.SGT Scott Henderson	Discourtesy: Sgt. Scott Henderson spoke obscenely and/or rudely to § 87(2)(b)	
K. An officer	Discourtesy: An officer spoke rudely to § 87(2)(b)	
L.POM Michael Cruz	Discourtesy: PO Michael Cruz spoke rudely to § 87(2)(b)	

Synopsis

§ 87(2)(b) and § 87(2)(b) were with a group of individuals in front of § 87(2)(b) at least one of whom was harassing § 87(2)(b) old § 87(2)(b) § 87(2)(b) who subsequently called 911 to report an assault. Sgt. Henderson, PO Cruz, and PO Encarnacion responded and conducted a canvass of the area with § 87(2)(b) § 87(2)(b) who identified § 87(2)(b) as one of the involved individuals. PO Cruz approached § 87(2)(b) and attempted to place him under arrest, but § 87(2)(b) resisted arrest, necessitating the use of force to handcuff him. § 87(2)(b) attempted to strike PO Cruz, who punched back at § 87(2)(b) (Allegation A). OATH caselaw indicates this force should be exonerated. § 87(2)(b) also alleged that PO Cruz punched him again after he was handcuffed (Allegation B). § 87(2)(g)

Officers also attempted to place § 87(2)(b) under arrest. Allegations were made by § 87(2)(b) and other civilians that during this struggle, one officer attempted to punch § 87(2)(b) (Allegation D), pointed his weapon at § 87(2)(b) (Allegation E) and struck § 87(2)(b) while he was on the ground (Allegation F). § 87(2)(b), § 87(2)(g)

As the arrests of § 87(2)(b) and § 87(2)(b) were ongoing, § 87(2)(b) the complainant's son, ran up to the scene, and was eventually arrested. § 87(2)(b) alleges that he was struck by Sgt. Henderson when he first approached the scene. (Allegation G). § 87(2)(b), § 87(2)(g)

§ 87(2)(b) further alleges that he was lightly struck in the head with a nightstick by one of two uniformed officers (Allegation H), who both pushed him against a gate in an attempt to handcuff him (Allegation I). § 87(2)(b) was not able to identify the subject officers from a photo array, and numerous officer interviews and police documents and interviews did not clarify their identity. Additionally, § 87(2)(b) did not see the face of the officer who struck him in the head. § 87(2)(g)

§ 87(2)(b) alleges that he was told to "shut the fuck up," by Sgt. Henderson while repeatedly questioning the officer during his arrest, and ignoring the officer's requests that § 87(2)(b) be quiet (Allegation J). § 87(2)(g)

§ 87(2)(b) alleged that a red-haired officer in the prisoner van told him to "shut the fuck up," while § 87(2)(b) was screaming about pain in his hand. § 87(2)(b) was unable to identify the subject officer from photo arrays, and his description did not match the description of any known officer in the prisoner van. § 87(2)(b), § 87(2)(g)

§ 87(2)(b) stated that PO Cruz called § 87(2)(b) a "little bitch" on the scene (Allegation L), as § 87(2)(b) was screaming that his hand hurt. § 87(2)(g)

Summary of Complaint

The CCRB received § 87(2)(b)'s complaint on 7/01/02 (Encl. 7a-f). § 87(2)(b) filed on behalf of her son, § 87(2)(b) who was arrested, along with § 87(2)(b) and § 87(2)(b) on 6/17/02. She alleged excessive force and stated that her son lost his job as a result of this incident.

§ 87(2)(b) a § 87(2)(b) year-old employed woman who lives at § 87(2)(b) was interviewed in the field by the CCRB on 8/9/02 (Encl. 9a-c). On the date of the incident, she was told by a building resident that her § 87(2)(b)-old son, § 87(2)(b) was being beaten up by officers. She went outside and observed 15-20 mostly uniformed officers on the scene. No arrests were currently ongoing, and § 87(2)(b) observed § 87(2)(b) and his friend, § 87(2)(b) seated inside a marked police van. She was told by several witnesses that her son did nothing other than approach the crowd, at which point he was grabbed by

an officer who started hitting him. She was told that the same thing happened to § 87(2)(b) and that § 87(2)(b) was also arrested. § 87(2)(b) was told to go to PSA 3 with any questions, which she did.

At the stationhouse, § 87(2)(b) observed § 87(2)(b) and § 87(2)(b) at the desk, 20-25 feet away. She did not observe any injuries. A black male officer, 5'9", mid-thirties, medium build, wearing a beige button down shirt, who spoke with a sort of lisp, was initially very nice to her, until she stated that § 87(2)(b) was her son. The officer then told her she had to wait, and she and the officer began arguing. When § 87(2)(b) told the officer not to speak to his mother like that, this officer replied, "That's why I punched you in your face." Finally, a short, fair Hispanic officer, about 5'5", gave her the boys' possessions, and stated they were being taken to Central Booking. He told her that § 87(2)(b) was being charged § 87(2)(b). The three boys were released the next evening, at which point § 87(2)(b) observed a bruise on § 87(2)(b) lower lip, but no injuries on her son.

§ 87(2)(b) was shown photo arrays in the field on 4/8/03 (Encl. 10a-f). There were five arrays of potential subject officers, and each page was matched so that every officer had at least one match in terms of race and hair color. Every victim/witness who was presented with photo arrays was shown this same array. § 87(2)(b) identified Sgt. Henderson as the nasty officer who claimed to have hit her son, but identified no other officers.

Results of Investigation

Civilian Interviews

§ 87(2)(b)

§ 87(2)(b) is a § 87(2)(b)-old male § 87(2)(b). His arrest paperwork indicates he is 6'5" and 340 lbs. He was interviewed in the field by the CCRB on 8/9/02 (Encl. 13a-c) and stated that on 6/17/02, he was present with several friends, including his brother § 87(2)(b) and his friend § 87(2)(b) outside his apartment building at § 87(2)(b). He and his friends were "mouthing off" to § 87(2)(b) (actually § 87(2)(b) § 87(2)(b) a younger boy from their building. § 87(2)(b) characterized the interaction as friendly. After about an hour, an unknown individual from their group brought § 87(2)(b) inside the lobby of the building. § 87(2)(b) stated "the guy was, you know, I wouldn't say punching him, but he was just playing with him, toying with him inside the building." § 87(2)(b) his brother, and § 87(2)(b) all left and went to Crown Chicken across the street.

When they came back to the building, § 87(2)(b) grandmother, § 87(2)(b) approached them and stated she would have § 87(2)(b) § 87(2)(b) arrested for picking on § 87(2)(b) § 87(2)(b) § 87(2)(b) told his brother to leave, which he did. § 87(2)(b) § 87(2)(b) was not present for the subsequent incident. § 87(2)(b) and § 87(2)(b) began arguing.

An unmarked black sedan pulled up while § 87(2)(b) and § 87(2)(b) were in front of the building. An officer (Puerto Rican, 5'8", 27 or 28 years old, muscular) approached § 87(2)(b) and asked if he could talk to him for a second. He did not identify himself as an officer. § 87(2)(b) noticed § 87(2)(b) in the black sedan. § 87(2)(b) informed the officer that they did not have to talk to him because § 87(2)(b) had not done anything wrong, which § 87(2)(b) affirmed. The officer asked to see his hands, and § 87(2)(b) asked why, but raised his hands. Another Hispanic officer, (thin to medium build, older than the first, similar height) approached. Both officers grabbed his wrists and attempted to pull his hands behind his back. § 87(2)(b) pulled his hands up.

While the two officers were still holding his wrists, a third officer, a black male, about 6'0", in tan clothing, approached and punched him directly in the mouth with a closed fist. § 87(2)(b) was against a car at this point, he looked at the officer and said, "Damn, you didn't have to hit me." The officer hit him again in the mouth. However, during his photo array, § 87(2)(b) stated that the second time this officer hit him, he was on the ground, already handcuffed.

§ 87(2)(b) did not know what was going on with § 87(2)(b) at this point, though he heard him yelling. He never observed § 87(2)(b) interact with officers. There was a crowd of about 35 people around. The officers were trying to get § 87(2)(b) to the ground, and he heard someone yelling "just go down." § 87(2)(b) dropped to one knee, and the officers then pushed him to the ground. All three officers had their knees on him while he was being handcuffed. While on the ground, he observed the black detective pull out a gun on his friend § 87(2)(b) who was about 25 feet away, running towards

them from the building stating “what are you doing to my friend?” § 87(2)(b) stopped running, and later told § 87(2)(b) that an officer had hit him. § 87(2)(b) did not observe force used towards § 87(2)(b) but later observed a bruise on § 87(2)(b)'s lip.

§ 87(2)(b) stated he was compliant once he was on his stomach. He was placed in a van by the two Hispanic officers, though many more officers had arrived on the scene. None of the initial three officers were in the van. There were two uniformed black officers inside the van, where § 87(2)(b) observed § 87(2)(b) for the first time. He didn't observe any of § 87(2)(b)'s interaction with the police. § 87(2)(b) was also placed in the van. § 87(2)(b) was screaming that the cuffs were too tight (his wrist was swollen from a pre-existing injury).

§ 87(2)(b) sustained two bruises as a result of being hit. He stated no force was used towards him after he was handcuffed.

On a 4/8/03 field visit, § 87(2)(b) was presented with the same kind of photo arrays as presented to § 87(2)(b) (Encl. 14a-f). He identified Sgt. Henderson as the black officer who hit him twice and pointed a gun at § 87(2)(b) and identified PO Cruz as the Hispanic officer who first approached him.

§ 87(2)(b)

§ 87(2)(b) is a § 87(2)(b) old male who was interviewed in the field by the CCRB on 8/9/02 (Encl. 11a-d). His description of events leading up to the officers' arrival corresponds to § 87(2)(b) testimony. § 87(2)(b) denied ever seeing § 87(2)(b) with § 87(2)(b) § 87(2)(b) § 87(2)(b) stated that § 87(2)(b) and § 87(2)(b) were arguing, while he was laughing and telling § 87(2)(b) to “let it go.” § 87(2)(b) was approached by a Puerto Rican officer who was wearing yellow, a fatigue bandana, about 5'7”, who stated that he wanted to talk to § 87(2)(b). § 87(2)(b) asked him why and who he was. § 87(2)(b) made no aggressive movements towards the officer, and was actually backing up. The officer swung at § 87(2)(b) but missed, because § 87(2)(b) used to box, and managed to duck. Because § 87(2)(b) was not aware the man was an officer, he swung back at the officer, glancing his left shoulder and hitting him in the ear. The officer pointed a gun at him, and § 87(2)(b) observed a badge, at which point he put his hands up.

The officer instructed him to go up against a gate. § 87(2)(b) looked over his shoulder and observed officers wrestling with § 87(2)(b). § 87(2)(b) was refusing to let the officers handcuff him, saying the cuffs didn't fit. § 87(2)(b) stated he has worked for security companies and knows how to deal with officers, so he instructed § 87(2)(b) to stop resisting. § 87(2)(b) did not observe the rest of the police interaction with § 87(2)(b) but later observed § 87(2)(b) lip bleeding.

The Puerto Rican officer patted § 87(2)(b) down, then told him to get on his knees, which he did. The officer then pushed him to the ground and handcuffed him. The cuffs were tight because § 87(2)(b)'s wrist was already swollen from a previously sprained wrist. § 87(2)(b) asked if the cuffs could be loosened, and felt three or four blows to his back. Though on the ground, his face was to the side and he observed a foot come up towards him, leading him to believe he was kicked. § 87(2)(b) did not know which officer kicked him, and had no injuries to his back.

The crowd was cursing at officers. § 87(2)(b) was the first individual placed in the prisoner van. § 87(2)(b) was the next in the van, and he had a bruised lip. § 87(2)(b) did not observe any of § 87(2)(b)'s struggle with officers. § 87(2)(b) was the last one placed in the van. § 87(2)(b) was screaming, in his own words, “like a little girl.” § 87(2)(b) stated he'd been shot four times but had never been in such pain. A white male, uniformed, red-haired officer inside the van told him to “shut the fuck up.” A black officer told him that they'd be at the stationhouse in a few minutes, and even § 87(2)(b)'s friends were telling him to shut up.

At the precinct, § 87(2)(b) observed a plainclothed sergeant who looked Dominican speaking to § 87(2)(b)'s mother, § 87(2)(b). This officer was wearing a black shirt. § 87(2)(b) stated that the officer was not being nice to § 87(2)(b) but could not remember what was being said. He heard § 87(2)(b) state that she was going to file a complaint and the sergeant told her to go ahead, and provided his shield number.

On a 4/8/03 field visit, § 87(2)(b) was presented with the same kind of photo array as previously described (Encl. 12a-f). He identified Sgt. Henderson as the officer who was nasty to § 87(2)(b) in the precinct, and stated he did not see this officer on the scene. He identified PO Cruz as the officer in a yellow bandana who put him in handcuffs and struck him when he was on the ground. During the photo array, he stated that while on the ground, he was punched by PO Cruz (rather than kicked, as previously

described). § 87(2)(b) also identified PO Encarnacion as the officer who punched § 87(2)(b) in the face and drew a gun on him, although he originally claimed not to have seen force used against § 87(2)(b). § 87(2)(b) also identified PO Encarnacion as the officer who was trying to bring § 87(2)(b) to the ground.

§ 87(2)(b)

§ 87(2)(b), § 87(2)(b)'s § 87(2)(b)-old son, had been employed § 87(2)(b) prior to this incident. He was interviewed in the field by the CCRB on 9/27/02 (Encl. 15a-c). § 87(2)(b) stated that on the incident date, he had been watching TV with his girlfriend, and gone to the store across the street from the projects. On his way back, he saw three or four men beating up § 87(2)(b) and § 87(2)(b) but he didn't immediately realize they were officers. § 87(2)(b) was lying on his stomach, and an officer had a knee in his face. § 87(2)(b) believed that it took 2-3 minutes to handcuff § 87(2)(b) and during this time, a black male officer (5'9", medium build) punched § 87(2)(b) twice in the side of the face. A Hispanic officer (about 5'6", blue denim outfit) was helping to cuff § 87(2)(b) who did not struggle.

§ 87(2)(b) passed through a large crowd of about 30 people who were very close to the officers, and stood within a foot of the officers. After the black officer hit § 87(2)(b) the first time, § 87(2)(b) asked what was going on, and was told by this officer to "shut the fuck up." § 87(2)(b) repeated his question, at which point the black officer hit him. § 87(2)(b) stepped back and put up his hands, calling the officer a "punk" because he was caught off guard. § 87(2)(b) was still on the ground at this point.

Two uniformed white officers, both over 5'9", both with dark hair, then came from behind § 87(2)(b) and hit him in the center of the back of the head with their nightsticks. § 87(2)(b) stated that this was not a hard swing--it didn't have sufficient force to make him step or fall forwards, and did not cause a bump. He stated it was more like they were trying to knock him off balance. § 87(2)(b) was not sure which officer used the nightstick. The officers pushed him against a gate, at which time § 87(2)(b)'s left cheek hit the gate, causing a bump on his face which was his only injury. § 87(2)(b) did not seek medical attention.

As the black officer was picking § 87(2)(b) up from the ground, the Hispanic officer hit § 87(2)(b) in the mouth. § 87(2)(b) was brought near the van while a Spanish officer wearing a yellow bandana was handcuffing § 87(2)(b) who was screaming that his arm hurt. The Spanish officer replied "I don't care," and hit him with a closed fist in the face, saying § 87(2)(b) bitch, you ain't a man now." § 87(2)(b) was not struggling with the officer.

§ 87(2)(b) was brought to the van first, followed by § 87(2)(b) and lastly by § 87(2)(b). They were transported to PSA 3. There were four uniformed officers in the van, including the two that hit him in the head. Back at the precinct, he observed § 87(2)(b) ask an officer why he hit § 87(2)(b) and the officer replied "that's right, I hit your son, he shouldn't be minding other people's business."

§ 87(2)(b) was in Central Booking for two days and lost his job as a result. He returned to the precinct to get something from his arresting officer (the Spanish officer) stating why he missed work. The Spanish officer was his arresting officer. § 87(2)(b) is considering suing his boss for firing him.

On a 4/8/03 field visit, § 87(2)(b) was presented with the same kind of photo array as previously described (Encl. 16a-f). § 87(2)(b) identified PO Cruz as the officer in the denim jacket and yellow bandana, and as the officer who punched § 87(2)(b) while he was cuffed, and called him a § 87(2)(b) bitch." § 87(2)(b) identified Sgt. Henderson as the officer who punched him § 87(2)(b) twice in the face, grazing his face.

§ 87(2)(b)

§ 87(2)(b), a § 87(2)(b) year-old foster mother of § 87(2)(b) old § 87(2)(b) § 87(2)(b) was interviewed in the field by the CCRB on 2/28/03 (Encl. 16a-f), at her apartment in § 87(2)(b). She stated that on 6/7/02, § 87(2)(b) was returning from the store when he was assaulted by a bunch of kids in the hallway of the apartment building, who choked him. § 87(2)(b) is small and is called a "nerd" by local boys. § 87(2)(b) went outside to find the people who did it, not knowing that § 87(2)(b) had already called the police. She knows § 87(2)(b) by face and by his street name of § 87(2)(b) and began yelling at him. At the time, she did not know, as she later discovered, that it was a different person, who was no longer present, who had assaulted § 87(2)(b).

A police car pulled up, with § 87(2)(b) inside. A dark skinned officer approached § 87(2)(b) and was initially "trying to talk to him nicely," but § 87(2)(b) "wouldn't hear it." The officer asked § 87(2)(b) to move and told him to stand up, but § 87(2)(b) didn't move. The officer went to grab § 87(2)(b).

§ 87(2)(b) by the arm, and § 87(2)(b) jerked his arm back and told the officer not to put his “blanking hands” on him. § 87(2)(b) stated, “Then when the cop grabbed him and told him to turn around, and he wouldn’t turn around, and the cop tried to turn him around. And when he turned around, he accidentally threw up his hand and hit the police officer. The police officer, I guess in reflex, hit him back. Then he was on the ground, and the police were trying to handcuff him, and he was tussling.” § 87(2)(b) would not let the officers handcuff him, so an officer put a knee in § 87(2)(b) back and put handcuffs on him.

She believes it took at least two officers to handcuff § 87(2)(b) and believes that while they were trying to handcuff him, they tried to hit him. However, she doesn’t know what officer did this, or how, or how many times, or where § 87(2)(b) was hit. § 87(2)(b) was telling the officers not to do that. She stated she didn’t want anyone to get hurt, stating “All he had to do was turn around and get handcuffed and it all would have been avoided.”

When asked if she saw any officers with nightsticks out, she stated she may have seen an officer put one around § 87(2)(b)’s neck or shoulders, but she wasn’t sure. She did not see anyone get hit with nightsticks. She did not see any guns drawn.

§ 87(2)(b) stated there was a lot of chaos, and her attention was divided between the different things happening at once. She was attempting to hold back § 87(2)(b) (whom she knew as § 87(2)(b)’s son), who had come out of the building at that time. She stated his mouth got him in trouble, but doesn’t remember what he was saying. § 87(2)(b) was not sure if she saw him get handcuffed, and didn’t see any officer hit him. She did not recall which officers arrested him.

§ 87(2)(b) stated that all the kids had been drinking. When asked what happened when officers tried to arrest the other two individuals § 87(2)(b) and § 87(2)(b) she stated that there was “some tussling.” She stated that people didn’t want to get handcuffed, but did not recall officers hitting anyone other than § 87(2)(b).

§ 87(2)(b) stated she was so angry that she could hardly remember what happened. She added that there was profanity all over the place, but she could not recall who said what.

§ 87(2)(b)

§ 87(2)(b), who is § 87(2)(b) years old, § 87(2)(b), and also lives at § 87(2)(b). She has known the victims for about a year and a half, and was interviewed by the CCRB on 8/9/02 (17a-c). Her apartment is on the § 87(2)(b) floor, and overlooks the incident location. On 6/17/02, she heard arguing, and looked out her living room window. She observed § 87(2)(b) arguing with § 87(2)(b) saying something about her son and about someone going to jail. § 87(2)(b) got up and walked to the gate by the building entrance.

A dark, unmarked police car pulled up near § 87(2)(b). An officer approached § 87(2)(b) and began speaking to him. § 87(2)(b) could not see the officer’s face or hear what he was saying, but she heard § 87(2)(b) saying “I didn’t do anything.” This officer then started wrestling with him, trying to pull his arms behind his back. § 87(2)(b) is a large man and responded by moving his arms around, preventing the officers from placing his arms behind his back. § 87(2)(b) started yelling “I didn’t want this to happen.”

§ 87(2)(b) was standing near the gate, asking what happened. An officer told § 87(2)(b) to move back, and § 87(2)(b) responded “He § 87(2)(b) didn’t do anything.” § 87(2)(b) came from his building § 87(2)(b), also asking what happened. § 87(2)(b) was trying to see what happened to § 87(2)(b). § 87(2)(b) isn’t sure how it started, but an officer pushed § 87(2)(b) into the gate, telling him to back up. § 87(2)(b) was trying to get past the officer, and the two started pushing back and forth, with § 87(2)(b)’s back against the gate. She did not pay any more attention to him because by now § 87(2)(b) was on the ground, and she was watching that.

§ 87(2)(b) was on the ground about eight feet from § 87(2)(b) not struggling. An officer had a knee on his back. Back-up officers arrived and at that point § 87(2)(b) was handcuffed, but § 87(2)(b) did not see any struggle between § 87(2)(b) and officers. A large crowd had gathered, and officers were telling them to get back. § 87(2)(b) stated she did not see any additional types of force used by officers. She then stated she did see an officer punch § 87(2)(b) in the mouth, as they were trying to pull his arms around. There were two officers present at that time. She later heard other things, such as a gun being drawn, but didn’t see that.

Officer Interviews

PO Cruz, PO Encarnacion, and Sgt. Henderson were assigned to a plainclothed anti-crime unit in an unmarked black Lumina. The color of the day was yellow. At approximately 8:00 PM, they responded to an assault in progress at § 87(2)(b). The victim, § 87(2)(b) § 87(2)(b) was a § 87(2)(b) old mentally handicapped boy who claimed to have been assaulted by several black males in the lobby of § 87(2)(b) and who subsequently lost consciousness, either from fainting or from being choked.

PO Michael Cruz

PO Cruz is a 5'8", 190 lb. Hispanic male officer, who was interviewed by the CCRB on 10/18/02 (19a-d). PO Cruz stated he does not wear bandanas. All three officers responded to § 87(2)(b)'s apartment, and PO Cruz interviewed § 87(2)(b) while PO Encarnacion and Sgt. Henderson spoke to § 87(2)(b).

The officers, § 87(2)(b) and § 87(2)(b) got into the officers' unmarked car to canvass the housing project for § 87(2)(b) assailants. § 87(2)(b) § 87(2)(b) pointed out § 87(2)(b) who was sitting on a gate outside the building, and who is 6'5", 300 lbs. PO Cruz approached § 87(2)(b) requesting to speak to him, but § 87(2)(b) started walking away, stating he didn't have to talk to the officer, and saying "Leave me alone." PO Cruz grabbed § 87(2)(b) wrist and took his handcuffs out. § 87(2)(b) pulled away and a physical struggle ensued, which PO Encarnacion then joined. They brought § 87(2)(b) who was trying to get away, towards their car, and PO Cruz managed to get one handcuff on § 87(2)(b) wrist. While the officer was holding onto the cuffed arm, § 87(2)(b) managed to pull his arm back and tried unsuccessfully to punch PO Cruz's face with that arm. PO Cruz then punched § 87(2)(b) in the mouth to subdue him. § 87(2)(b) was cursing and telling them to get off of him. The officers called for assistance and struggled with § 87(2)(b) who was kicking and swinging his arms. The two officers and § 87(2)(b) ended up against the officer's car, where they fell to the ground. Because of § 87(2)(b) size, PO Cruz had to use two sets of cuffs to handcuff him.

During this time, the crowd became verbally aggressive and moved close to the struggle. § 87(2)(b) § 87(2)(b) pointed out two other men who were involved, though the sergeant was telling her to return to the vehicle. When PO Cruz looked up from § 87(2)(b) he observed a second individual, with a cast on his arms, struggling with two uniformed officers who were trying to pull his hands behind his back. He did not see these officers hit the second individual. A third individual jumped in and tried to pull this second individual away from officers. PO Cruz did not see this third individual get struck by any officers. PO Cruz stated his focus was on § 87(2)(b) and he did not recall what his partner or the sergeant were doing. PO Cruz never drew his weapon and never saw another officer do so.

All three individuals were arrested and placed in a prisoner van. PO Cruz sat behind the driver and passenger of this van, but does not recall who these officers were. PO Cruz does not recall any civilian in the van screaming about being in pain. PO Cruz used no profanity throughout this incident and never heard any officer use any. PO Cruz prepared the arrest paperwork and noted "force used" on all the arrest documentation, based upon his own observations. He did not discuss the other civilian's arrests with the officers who restrained them.

PO Zoilo Encarnacion

PO Encarnacion is a 5'10", 198 lb. Hispanic male who was interviewed by the CCRB on 10/30/02 (20a-d). He stated he usually wears a wristband to indicate the color of the day. He stated that on the date of the incident, after responding to an assault in progress at § 87(2)(b) officers drove both § 87(2)(b) and § 87(2)(b) around the projects in an attempt to locate the perpetrators. § 87(2)(b) § 87(2)(b) identified § 87(2)(b) who was standing outside the building near a railing with two other individuals, as one of the perpetrators. PO Encarnacion described § 87(2)(b) as 6'5" and 300 lbs.

PO Encarnacion and PO Cruz approached § 87(2)(b) on foot, with the intention of arresting him. They told § 87(2)(b) he'd need to go with them, and § 87(2)(b) became argumentative and profane. PO Cruz attempted to grab one of § 87(2)(b) arms but § 87(2)(b) swung at PO Cruz's face. PO Cruz swung back and hit § 87(2)(b) while PO Encarnacion grabbed § 87(2)(b) other arm. Each officer had one arm and began wrestling with § 87(2)(b) in an attempt to handcuff him. § 87(2)(b)

was swinging his body and arms around to avoid being cuffed, and PO Encarnacion was trying to trip him to bring him to the ground.

§ 87(2)(b) was brought to the ground near the unmarked car. He was holding an arm underneath his body, which PO Encarnacion managed to get out and finally handcuffed § 87(2)(b) using two sets of handcuffs. PO Encarnacion does not recall the sergeant becoming involved in the struggle to restrain § 87(2)(b). No officer struck § 87(2)(b) other than PO Cruz's first punch.

A crowd was pressing in to within a foot of the officers, yelling "Get him, § 87(2)(b)!" (§ 87(2)(b) street name). At one point, one of § 87(2)(b) two friends was tugging at PO Encarnacion's back, trying to pull the officer off of his friend. PO Encarnacion does not know which civilian this was, or what happened to him, because his focus was on § 87(2)(b) and the crowd. At some point uniformed officers arrived and handled the crowd. PO Encarnacion observed § 87(2)(b) two friends being walked in handcuffs to a prisoner van, but he does not know which officers escorted them. PO Encarnacion did not observe their arrests and saw no force used towards them. He never saw another officer with a nightstick or a weapon out. He did not have a nightstick and did not draw his weapon.

PO Cruz rode in the van but PO Encarnacion did not. At the precinct, PO Encarnacion observed all three individuals by the desk but did not observe any injuries on them. He did not speak to any of the their parents or relatives at the precinct.

Sgt. Scott Henderson

Sgt. Henderson is a 6'0", 220 lb. black male who was interviewed by the CCRB on 12/3/03 (Encl. 21a-b). He stated that he does not wear bandanas and usually wears a wristband to indicate the color of the day. Sgt. Henderson was also supervising PO Barbuto, PO McMillian, and PO Reid, who were in uniform assigned to a marked van. Sgt. Henderson stated that he would call these officers if he needed a prisoner van. Sgt. Henderson recalls bringing § 87(2)(b) on a canvass for his assailants, but believes that § 87(2)(b) was told to remain in the house.

§ 87(2)(b) identified two individuals on a bench in front of § 87(2)(b). All three officers exited the vehicle and approached the two men, who stood up. The larger (6'2", 300 lbs.), § 87(2)(b) remained by the bench, while the other began walking away. Sgt. Henderson followed this individual while PO Cruz and PO Encarnacion remained with § 87(2)(b).

Sgt. Henderson told this individual, later identified as § 87(2)(b) to wait, which he did. The sergeant tried to grab his wrist but § 87(2)(b) pulled back. At that point the sergeant heard a commotion behind him and left § 87(2)(b) alone, going to assist his two officers with § 87(2)(b) who was stating he was not going to jail. PO Cruz and PO Encarnacion were trying to pull § 87(2)(b) arms behind his back. Sgt. Henderson helped push § 87(2)(b) to the ground and knelt by his head, holding him down, while the other two officers were closer to his feet. Sgt. Henderson did not see any officer strike § 87(2)(b).

While the sergeant was on the ground with § 87(2)(b) came over and jumped on the sergeant's back, attempting to pull him off § 87(2)(b). The sergeant got up and handcuffed § 87(2)(b) with minimal resistance. After § 87(2)(b) and § 87(2)(b) were handcuffed, another individual, later identified as § 87(2)(b) came running over. § 87(2)(b) threw a closed-fist punch at Sgt. Henderson, which he avoided. § 87(2)(b) turned to leave, and the sergeant grabbed him in a bear-hug and restrained him.

Other officers had arrived at the scene and assisted in handcuffing § 87(2)(b). Sgt. Henderson does not recall who these officers were, and does not recall officers other than those under his supervision in the prisoner van arriving on the scene. Both 090 precinct and housing officers showed up.

A large crowd had gathered and were making threatening comments to § 87(2)(b) guardian. People were throwing things off the roof. Sgt. Henderson does not recall any officer using profanity. He does not recall seeing any nightsticks out, and never saw an officer strike a civilian. He never observed any officer draw their gun.

Sgt. Henderson filled out paperwork at the precinct but does not recall interacting with a civilian in regards to these arrests. He does not recall either officers or civilians sustaining injuries as a result of this incident.

PO Michael Hendriks and PO Brian Singer

PO Hendriks was interviewed by the CCRB on 12/10/02 (Encl. 22a-b) and stated that on the date of the incident, he was working 090 Sector E with PO Singer. Upon arriving at the location, PO Hendriks and PO Singer exited the vehicle and approached a black male plainclothed housing sergeant, who was stating "Let's get out of here." There was an angry crowd of 10-15 people using profanity against the 8-10 police officers that were present.

PO Hendriks did not physically interact with civilians on the scene. He may have verbally interacted with civilians that were too close. He saw no individuals on the ground and heard no profanity used by any officers. He didn't know any of the housing officers and doesn't recall any 090 officers who were there. On his way back to his car, he observed a black male civilian in the prisoner van and possibly another civilian in a car. He doesn't recall their demeanor. He does not recall a civilian yelling about his handcuffs being too tight. PO Hendriks does not know if his partner stayed with him the entire time, and believes he just went back on patrol following this incident.

PO Brian Singer, now assigned to Harbor Unit, was interviewed by the CCRB on 6/6/03 (Encl. 25a-e) and had no recollection of the incident. He was refreshed with numerous details about the incident. He stated that between 20:08 and 20:20 he had a job at 29 Moore Street, a 10-50, disorderly group. He does not recall how far from § 87(2)(b) that location was. He was shown the radio indicating his unit responded to the location, still had no recollection of the incident. His next entry was at 22:09.

PO Singer did not speak to PO Hendriks about the notifications, or about the incident. He was not informed by PO Hendriks that he'd been called down to CCRB.

Sgt. Michael Culkin and PO Christopher Barry

Sgt. Culkin and PO Barry were assigned to a 090 precinct anticrime team on the date of the incident, in plainclothes. Despite being refreshed with details about the incident and documents such as the roll call and the radio run, neither officer had any recollection of the incident, or any indication in their memo books of their whereabouts at the time of the incident. Sgt. Culkin was interviewed by the CCRB on 12/11/02 (Encl. 23a-d). PO Barry was interviewed by the CCRB on 12/11/02 (Encl. 24a-d).

Sgt. John Cocchi

Sgt. Cocchi was interviewed by the CCRB on 6/11/03 (Encl. 26a-d). He was the 090 precinct patrol sergeant, and was working in uniform with PO Giarputto. The sergeant had no independent recollection of the incident, despite being refreshed with details. He doesn't recall any incident similar to that on another date. His memo book indicates only the start and end of his tour. He asserted that if he had responded to such an incident, whether ongoing or completed, he would have noted it in his memo book.

Documents

According to the radio run (Encl. 28a-e), at 7:42 PM, § 87(2)(b) § 87(2)(b) called 911 indicating that he had been assaulted and was spitting up blood at § 87(2)(b). He provided a description of the perpetrator. At 7:44, the housing anticrime unit picked up the job and arrived at the location at an unspecified time. At approximately 8:09, this anticrime unit requests a car to § 87(2)(b). The officer's voice is clearly stressed, and a loud chaotic crowd can be heard in the background (this request for a unit is not indicated on the Sprint print-out, but can be heard if the taped audio transmissions are reviewed). Two 090 precinct units immediately radioed a response; including the 090 precinct anticrime unit which arrived at 8:09, and a housing anticrime unit which arrived at 8:11, at which time Sgt. Henderson indicated no further units were necessary. At 8:12, 090 Sector E indicated that all units were accounted for, and at 8:18, housing anticrime had three under arrest.

The housing command log (Encl. 37a-b) indicates the presence of § 87(2)(b), § 87(2)(b) and § 87(2)(b) in the stationhouse at 8:25 PM. Their condition was listed as "apparently normal," with the exception of § 87(2)(b) whose condition was listed as "old hand injury." The command log indicates that § 87(2)(b) was charged § 87(2)(b); § 87(2)(b) received those same charges, and § 87(2)(b) received charges § 87(2)(b). Arrest paperwork (On-Line Booking Sheets, and, in the case of § 87(2)(b) and § 87(2)(b) § 87(2)(a) 160.50

§ 87(2)(b) was charged § 87(2)(b)

§ 87(2)(b), and § 87(2)(b) was charged § 87(2)(b)

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

A medical treatment of prisoner report for § 87(2)(b) (Encl. 36a-b) indicates that he had a swollen lower lip as a result of a struggle with officers, and that he refused medical attention. A similar form for § 87(2)(b) indicates that he had a pre-existing boxing injury on his right hand, and that he refused medical attention (Encl. 36a-b).

CCRB Histories

This is § 87(2)(b)'s first CCRB complaint (Encl. 4). Sgt. Henderson has ten total allegations in his eight year tenure (Encl. 6). He was substantiated on two discourtesy allegation in regards to CCRB # 200205513, and received charges. He has no prior force complaints. PO Cruz has eight total allegations in his five year tenure, including five force allegations, with no substantiations. He has no other discourtesy allegations (Encl. 5).

Conclusions and Recommendations

Only a few basic facts are established in regards to this incident. § 87(2)(b) was sitting outside § 87(2)(b) with § 87(2)(b) when officers approached him. PO Cruz initially interacted with § 87(2)(b) and punched him in the face. Other officers engaged in a struggle to handcuff § 87(2)(b) who resisted being arrested. § 87(2)(b), § 87(2)(g)

§ 87(2)(b) was present with § 87(2)(b) in front of § 87(2)(b) from the beginning of the incident, while § 87(2)(b) arrived later, and observed officers already struggling with his two friends. Additionally, § 87(2)(b) alleges that uniformed officers, who arrived later, assisted in cuffing him, and Sgt. Henderson corroborates that the third individual was handcuffed by uniformed officers. § 87(2)(g)

§ 87(2)(g)

Allegation A: PO Michael Cruz punched § 87(2)(b) while attempting to handcuff him.

Allegation B: PO Michael Cruz punched § 87(2)(b) after he was handcuffed.

§ 87(2)(b) stated he was initially approached by a Hispanic officer, who was joined by another, older, Hispanic officer, who both held his arms while a black officer punched him in the face (Allegation A). § 87(2)(b) also stated this officer punched him again, possibly while he was on the ground. (Allegation B). When shown photo arrays, § 87(2)(b) correctly identified PO Cruz as the officer who initially approached him, but then identified Sgt. Henderson as the officer who punched him in the face. There are several indications that § 87(2)(b) misidentified the officer who punched him. First, PO Cruz, a Hispanic officer, admitted to punching § 87(2)(b) in the context of attempting to handcuff him, after § 87(2)(b) resisted arrest and attempted to punch the officer (Allegation A). Additionally, § 87(2)(b) described seeing a Hispanic officer punch § 87(2)(b) while the civilian was being lifted up off the ground (Allegation B) and identified PO Cruz from a photo array as this officer. § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b) watching from the window, recalls that § 87(2)(b) was approached by two

officers, one in a do-rag, and while the officers were struggling to get his hands behind his back, he was punched in the mouth. § 87(2)(b) stated that § 87(2)(b) accidentally hit the officer, who hit him back. § 87(2)(g)

PO Cruz describes that he was the first to interact with § 87(2)(b) and managed to get one cuff on the civilian, who attempted to punch PO Cruz, who then struck him back to subdue him. PO Encarnacion corroborates this. PO Encarnacion stated that at the time, he was holding § 87(2)(b) arm, attempting to pull it behind his back. Sgt. Henderson stated that he recalled § 87(2)(b) attempting to hit his officers.

§ 87(2)(b) describes raising his hands at the officer's request, and then being grabbed and held by officers while being hit two times. § 87(2)(b), § 87(2)(g)

Numerous OATH cases have determined that striking a resistant suspect who is physically aggressive towards officers may be exonerable, based upon number of factors. In PD v. Stiso, OATH Index 1886/99 (Encl. 2) an officer reflexively struck a resistant suspect who had just punched the officer in the face. The tribunal found that the civilian's resistance to arrest and his aggression towards the officer were valid reasons to determine that the officer's actions were done in self-defense and not premeditated attempts to injure the civilian, and described the officer's reaction as "not out of proportion to the circumstances he was confronting." This idea is stated even more explicitly in PD v. Scully, OATH Index 1411/00, which states that once the civilian had "assaulted (respondent) with a punch to the forehead, respondent would have been justified in punching (civilian) to subdue him. This use of force would be an appropriate response to (civilian's) use of force and should not be regarded as excessive" (Encl. 3a-c).

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b) stated that after punching him in the face the first time, the officer (determined to be PO Cruz), punched him again (Allegation B). During his initial interview he stated that the second punch occurred in response to his statement "You didn't need to hit me," and occurred before he was brought to the ground. When making his photo identification of Sgt. Henderson, however, § 87(2)(b) stated that he was punched by this officer once while standing up, and once while on the ground, before being handcuffed. § 87(2)(b)'s testimony ends up supporting the latter of § 87(2)(b) two statements. § 87(2)(b) did not see the initial interaction between § 87(2)(b) and PO Cruz, but recalls seeing PO Cruz punch § 87(2)(b) as he was being lifted from the ground, also supporting § 87(2)(b) statement that the second punch occurred after he was handcuffed. § 87(2)(b), § 87(2)(g) § 87(2)(b), who was outside watching at the time, believes that officers may have hit § 87(2)(b) while he was on the ground, but was not sure. PO Cruz denies hitting § 87(2)(b) a second time, § 87(2)(g)

Allegation C: Sgt. Scott Henderson pointed his gun at § 87(2)(b)

§ 87(2)(b) alleged that while he was on the ground, the black officer in the tan outfit pulled a gun on § 87(2)(b) who was running towards him. § 87(2)(b) does not recall this, but § 87(2)(b) stated during his photo array that PO Encarnacion pointed his weapon at § 87(2)(b). However, § 87(2)(b) did not make

this allegation during his initial interview, stating at that time that he did not know what happened to § 87(2)(b) until he was placed handcuffed in the prisoner van.

§ 87(2)(b) description of a black officer in a tan outfit corresponds to Sgt. Henderson. § 87(2)(b) stated that she spoke to an unpleasant black officer in a beige shirt in the precinct, who claimed to have hit § 87(2)(b) and identified Sgt. Henderson as that officer during her photo array. § 87(2)(b) also identified a photograph of Sgt. Henderson as the officer who hit him, and § 87(2)(b) identified Sgt. Henderson as the officer who was “talking nasty” to § 87(2)(b) in the precinct. § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

. Additionally, § 87(2)(b) stated that the black officer in the tan shirt was kneeling by his head, which is where Sgt. Henderson described himself as being at that time. § 87(2)(b), § 87(2)(g)

§ 87(2)(g)

According to *Police Department v. Gliner*, OATH Index No. 955/00, “The policy of the Department is that an officer can draw his firearm and point it at another person so long as he has a reasonable fear for his own or another's personal safety.” In this case, three officers were faced with two subjects, one of whom was a huge man, resistant, and aggressive towards officers. Another subject, § 87(2)(b), may have been resisting, and a gathering crowd was pressing in and hostile. Backup had been called, but had not yet arrived. § 87(2)(b) was running towards the officers’ already difficult and ongoing struggle with § 87(2)(b) questioning their treatment of his friend. PD v. Gliner goes on to reference another case, stating “Experience has demonstrated that pointing a weapon frequently obviates the actual need to use it by terminating the underlying threat” (*Police Department v. Losado*, OATH Index No. 1035/93). § 87(2)(b), § 87(2)(g)

Allegation D: An officer attempted to use physical force against § 87(2)(b)

Allegation E: An officer pointed his gun at § 87(2)(b)

Allegation F: An officer used physical force against § 87(2)(b).

§ 87(2)(b) alleges that he was backing away from a Puerto Rican officer wearing yellow and a bandana, and that despite his lack of aggressive behavior, this officer swung at him, but missed. § 87(2)(b) states that he swung back at this officer, grazing him, at which point the officer pointed a gun at him, threw him to the ground, handcuffed him, and struck him several times.

Several factors indicate that this officer might be PO Cruz. During a photo array, § 87(2)(b) selected a picture of PO Cruz as the officer in yellow bandana who hit and handcuffed him. § 87(2)(b) also selected a photograph of PO Cruz as the officer in a yellow bandana who struck § 87(2)(b). Both Sgt. Henderson and PO Encarnacion state that they wear wristbands, not bandanas, to indicate the color of the day (which was yellow). § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b) states that § 87(2)(b) had been handcuffed already and was standing again, screaming about pain in his wrist, at which point he was punched by the officer in the yellow bandana, who had also handcuffed him.

Sgt. Henderson § 87(2)(g) states that the individual who was initially present with § 87(2)(b) walked away, followed by the sergeant, who grabbed his wrist. The sergeant then went back to § 87(2)(b) and one individual attempted to pull the sergeant off § 87(2)(b) § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

PO Encarnacion did not know what happened to this individual. PO Cruz did not recall § 87(2)(b) interfering in the arrest of § 87(2)(b) but recalls seeing an individual with a cast on his arm § 87(2)(b) struggling with officers who were attempting to pull his hands behind his back, and a third individual (presumably § 87(2)(b) interfere with that arrest. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b) and § 87(2)(b) state that the same officer handcuffed AND punched § 87(2)(b) and identified a photograph of PO Cruz as the officer in the yellow bandana who did this. § 87(2)(b), § 87(2)(g)

Allegation G: Sgt. Scott Henderson used physical force against § 87(2)(b)

§ 87(2)(b) alleges that when he approached the officers struggling with § 87(2)(b) he questioned their actions, was told to be quiet, and was then struck by the black officer, who grazed his face. § 87(2)(b) threw up his hands to defend himself but stated he never swung at any officer. § 87(2)(b) identified a photograph of Sgt. Henderson as the subject officer. Sgt. Henderson states that while he was struggling with § 87(2)(b), § 87(2)(b) came running over and threw a punch at the sergeant, which he avoided. Sgt. Henderson states he restrained § 87(2)(b) in a bear hug until other uniformed officers arrived on the scene. § 87(2)(b), § 87(2)(g)

Although he denies this, both § 87(2)(b) and § 87(2)(b) recall the sergeant telling § 87(2)(b), “That’s why I hit your son,” while in the precinct, and identified him from a photo array as this officer. § 87(2)(b), § 87(2)(g)

Neither § 87(2)(b) nor § 87(2)(b) observed what happened with § 87(2)(b) s arrest. § 87(2)(b) recalls § 87(2)(b) attempting to get past the officer with the do-rag, but did not observe his actual arrest. § 87(2)(b) also did not observe § 87(2)(b) get arrested. PO Cruz stated that the “third” individual attempted to pull officers off § 87(2)(b) and PO Encarnacion did not observe § 87(2)(b) s arrest. § 87(2)(b), § 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) stated he did not sustain an injury as a result of this grazing punch. § 87(2)(b), § 87(2)(g)

§ 87(2)(b) later alleges that he was pushed against a gate by the two officers, causing a bump to his face, and both § 87(2)(b) and § 87(2)(b) recall seeing a bruise on § 87(2)(b)'s lip. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Allegation H: An officer struck § 87(2)(b) with a nightstick.

Allegation I: An officer used physical force against § 87(2)(b)

After interacting with Sgt. Henderson, § 87(2)(b) alleges that two white male uniformed officers with dark hair, about 5'9" came up from behind him, and one hit him in the center of the head with a nightstick (Allegation H). § 87(2)(b) stated that was not done with a lot of force; he did not step or fall forward, nor did it cause a bump or injury. It simply made him stop his interaction with Sgt. Henderson. § 87(2)(b) did not know which of the two officers did this. These same two officers then pushed him into a gate and handcuffed him, causing a bump on his face. Additionally, he was unable to identify either of these officers from photo arrays, which included photographs of officers in the first several responding units, according to the radio run and roll call. § 87(2)(g)

§ 87(2)(b) no uniformed officer recalled assisting in handcuffing any civilian on the scene. § 87(2)(b) was unable to identify which of the two officers hit him, and no civilian was able to identify additional officers from photo arrays, despite those officers' established presence at the location. § 87(2)(g)

Allegation J: Sgt. Scott Henderson spoke rudely to § 87(2)(b)

§ 87(2)(b) alleges that while being handcuffed by the two uniformed officers, the black officer who punched him told him to "shut the fuck up." At the time, § 87(2)(b) stated he was repeatedly asking what he was being arrested for. It has been established that the black officer with whom § 87(2)(b) engaged in a physical struggle was Sgt. Henderson, and so this allegation is pled against him. § 87(2)(g) OATH caselaw indicates that use of profanity to enforce unheeded commands in a dangerous situation is not misconduct. In this situation, a large hostile crowd had gathered around the officers, who struggled to arrest three noncompliant suspects. In the course of those arrests, at least two punches were thrown, and possibly more. § 87(2)(b), § 87(2)(g)

Allegation K: An officer spoke rudely to § 87(2)(b)

§ 87(2)(b) stated that while in the prisoner van, a red-haired uniformed officer told him to "shut the fuck up." § 87(2)(b) admits that at this time, he was, in his own words, "screaming like a § 87(2)(b) girl," and that even his friends were telling him to "shut up." This officer was not identified by § 87(2)(b). It is clear that the prisoner van, with PO Barbuto (white male, dark hair), PO Mcmillian (black male), and PO Reid (black male) responded to the scene (identified through the radio run and roll call). Sgt. Henderson also affirmed that he would call this van, which was under his supervision, if he needed a

prisoner van. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g) According to § 87(2)(b)'s testimony, § 87(2)(b) began screaming that his arm hurt on the scene, at which time a hostile crowd was forming. § 87(2)(g)

Additionally, § 87(2)(b)'s friends were also telling him to shut up. § 87(2)(g) It is undisputed that § 87(2)(b) was screaming excessively and disregarded repeated commands that he be quiet. § 87(2)(b), § 87(2)(g)

Allegation L: PO Michael Cruz spoke rudely to § 87(2)(b)

§ 87(2)(b) stated that while on the scene, § 87(2)(b) was screaming that his handcuffs be loosened, and PO Cruz, in response, called him a "little bitch." § 87(2)(b) did not corroborate this allegation, but was obviously screaming at the time, and may not have noticed. § 87(2)(b), § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: